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10 Attorneys for Defendant and Counterclaimant
11 Sun Microsystems, Inc.

12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA
14 SAN FRANCISCO DIVISION

15 NETWORK APPLIANCE, INC.,

16 Plaintiff – Counterclaim
17 Defendant,

18 v.

19 SUN MICROSYSTEMS, INC.,

20 Defendant -
21 Counterclaimant.

CASE NO. 3:07-CV-06053 EDL

**DECLARATION OF CHRISTINE K.
CORBETT IN SUPPORT OF SUN
MICROSYSTEMS, INC.'S RENEWED
MOTION FOR PARTIAL STAY OF THE
CASE PENDING REEXAMINATION OF
UNITED STATES PATENT NO. 6,892,211**

**Date: TBD
Time: TBD
Courtroom: E, 15th Floor
Hon. Elizabeth D. Laporte**

22 I, Christine K. Corbett, declare:

23 1. I am an attorney at law duly licensed to practice before this Court and am a partner
24 with the law firm of DLA Piper US LLP, attorneys for Sun Microsystems, Inc. ("Sun"). I have
25 personal knowledge of the matters set forth herein and, if called as a witness, I could and would
26 competently testify thereto.

27 2. On or about December 14, 2007, Sun requested that the PTO grant reexamination
28

1 as to all claims of United States Patent No. 6,892,211 ("the '211 patent").

2 3. On or about April 2, 2008, the PTO issued an order granting *inter partes*
3 reexamination as to all twenty-four claims of the '211 patent.

4 4. On September 2, 2008, the PTO posted on its website an August 28, 2008, office
5 action rejecting all 24 claims of the '211 patent as either anticipated under 35 U.S.C. § 102 or
6 obvious under 35 U.S.C. § 103. Attached hereto as **Exhibit A** is a true and correct copy of the
7 PTO's August 28, 2008 office action.

8 5. With respect to the '211 patent, NetApp has not yet indicated that document
9 production is complete vis-à-vis those inventors still employed by NetApp.

10 6. Of the four listed inventors on the '211 patent, only one inventor deposition has
11 taken place. None of the patent prosecution attorneys who prosecuted the '211 patent have yet
12 been deposed. Nor have any Sun personnel who will testify as to the Sun products accused of
13 infringing the '211 patent been deposed.

14 7. Attached hereto as **Exhibit B** is a true and correct copy of the Supplemental Joint
15 Case Management Statement filed on May 28, 2008.

16 I declare under penalty of perjury under the laws of the United States that the foregoing is
17 true and correct. Executed in East Palo Alto, California, on September 8, 2008.

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19 
20 CHRISTINE K. CORBETT